

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

AMTRUST INSURANCE COMPANY OF  
KANSAS, a Kansas corporation,

Plaintiff,

v.

DIAMOND CUT LLC, a Washington  
corporation,

Defendant.

NO. CV-11-5095-EFS

**ORDER DISMISSING LAWSUIT AND  
CLOSING FILE**

On December 5, 2011, the Court entered an Order to Show Cause re: Dismissal, ECF No. 2, because Plaintiff Amtrust Insurance Company of Kansas' only action in this lawsuit is the filing of the Complaint on June 2, 2011. ECF No. 1. The Court ordered Plaintiff to file a statement by December 16, 2011, explaining why this lawsuit should not be dismissed for failure to prosecute, and cautioned that a failure to file a statement will be considered as consent to this lawsuit's dismissal. Plaintiff filed no document following the show-case Order. See Fed. R. Civ. P. 4(m) (requiring court to dismiss lawsuit if the complaint has not been served within 120 days) & 41(b) (recognizing that a plaintiff in a civil action has an affirmative duty to prosecute its case); see *Link v. Wabash R.R. Co.*, 370 U.S. 626, 633 (1962) ("[A] [d]istrict [c]ourt may dismiss a complaint for failure to prosecute even

1 without affording notice of its intention to do so or providing an  
2 adversary hearing before acting." ).

3 Accordingly, **IT IS HEREBY ORDERED:**

4 1. Plaintiff's Complaint, **ECF No. 1**, is **DISMISSED**.

5 2. **Judgment** is to be entered in Defendant's favor without  
6 prejudice.

7 3. This file shall be **CLOSED**.

8 **IT IS SO ORDERED.** The District Court Executive is directed to enter  
9 this Order and provide copies to counsel.

10 **DATED** this 19th day of December 2011.

11  
12 s/ Edward F. Shea

EDWARD F. SHEA

13 United States District Judge

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